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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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06/10/2005

Franz Bitzer

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT

PAPER NUMBER

2855

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/510,142	BITZER ET AL.	
	Examiner	Art Unit	
	Eric S. McCall	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 7-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Oct. 03, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

**METHOD FOR DETERMINING THE ROTATIONAL
SPEED OF A PART, ASCERTAINING THE SLIPPING OF
A CONTINUOUSLY VARIABLE TRANSMISSION (CVT),
AND FOR CONTROLLING A CVT, AND A CONICAL DISC
FLEXIBLE DRIVE TRANSMISSION**

FIRST OFFICE ACTION ON THE MERITS

In response to the Applicant's election dated Aug. 27, 2008.

RESTRICTION REQUIREMENT

The Applicant's election of Group I, claims 1-6 and 16-18, with traverse is noted. The traversal, based on that the groups are sufficiently related as to involve substantially the same field of search, has not been found to be persuasive. The various groups lack the same technical features and thus different specific searches for the different groups would need to be performed.

The requirement is still deemed proper and is therefore made FINAL.

DRAWINGS

The drawings are objected to because Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

ABSTRACT

The Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of the use of the legal phraseology "means". Correction is required. See MPEP § 608.01(b).

SPECIFICATION

The Specification is objected to because the specification fails to set forth section headings as provided in 37 CFR 1.77(b).

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. The Applicant's cooperation is requested in correcting any errors of which the Applicant may become aware of in the specification.

CLAIMS

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Claim 1, line 3; the term “their” is indefinite as to what is being referenced,

Claim 1, line 7; the phrase “the gear ratio” is indefinite since no gear between the component and the part has been previously set forth,

Claim 2, line 2; the phrase "...of two components arranged on different sides of the vibration node..." is indefinite since a second component has not been previously set forth,

Claim 2 sets forth that the average value of the rotational speeds of the components is used in the calculation of the part rotational speed but fails to set forth the actual averaging of the rotational speeds,

Claim 4, line 3; the phrase "the gear input rotational speed" lacks antecedent basis,

Claim 5; the phrase "the calculated gear input rotational speed" lacks antecedent basis,

Claim 5, line 2; the phrase "predetermined weighting" is indefinite as to the meaning,

Claim 6, the phrase "the weighting" is indefinite as to the meaning,

Claim 16; the phrase "the damage" lacks antecedent basis,

Claim 16, the phrase "the cone pulley belt transmission" lacks antecedent basis, and

Claim 18, the phrase "the output of a slippage event" is indefinite as to the meaning of "the output".

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakai et al. (5,515,272).

With respect to claim 1, Sakai et al. set forth a method for determining the rotational speed of a part among a plurality of components contained in a torsional vibration prone system and coupled with respect to their rotatability, in which method

the rotational speed of a component arranged in or on a vibration node is measured, and the rotational speed of the part is calculated from the measured rotational speed and the gear ratio between the component and the part (col. 1, lines 41-49).

With respect to claim 3, Sakai et al. set forth determining the input rotational speed of a continuously variable transmission contained in a power train of a vehicle, in which method the rotational speed of at least one wheel driven by the transmission is measured and the input rotational speed is calculated from the gear ratio of the transmission as well as possibly additional gear ratios between the output of the transmission and the wheel (col. 1, lines 41-49).

With respect to claim 4, Sakai et al. set forth that at least one wheel rotational speed, the input rotational speed and the output rotational speed of the transmission are measured and the gear input rotational speed that has been calculated from the measured variables as well as possibly additional gear ratios between the output of the transmission and the wheel is used for controlling and/or regulating components of the power train (col. 2, lines 32-45).

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With respect to claims 5 and 6, Sakai et al. set forth that the input rotational speed is used to control and/or regulate components of the power train (col. 2, lines 32-45).

With respect to claims 16-18, Sakai et al. set forth the continuous evaluation of the transmission with respect to “damage” and thus such an evaluation occurs when a slippage event takes place.

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai et al. (5,515,272).

With respect to claim 2, Sakai et al. set forth that the rotational speeds of two components arranged on different sides (input and output of the transmission) of the vibration node are measured and used in the calculation of the rotational speed of the part but fails to set forth that

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the average value of the rotational speeds of the components is used in the calculation of the rotational speed of the part.

However, it would have been obvious to one having ordinary skill in the art armed with said teaching to use an average value of the rotational speeds of the components for calculation of the rotational speed of a part.

The motivation being that using an average value of multiple measured values is common and very well known in order to increase the accuracy of a calculation of a variable.

CITED DOCUMENTS

The Applicant's attention is directed to the "PTO-892" form for the prior art made of record at the time of this office action.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric S. McCall/
Primary Examiner
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